IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4271 OF 2006

Hitesh Parbhat Solanki & Ors. .. Applicants
Versus
State of Maharashtra & Anr. .. Respondent

Mrs.Teja Katdare for applicants
Mrs.Sharmila Kaushik for respondent No.2.
Mr.Rajesh More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 20th December 2006

P.C.

. Applicants are apprehending arrest in connection with C.R.No.38 of 2006 registered with Diu Police Station.

2. Offences alleged are punishable under section 498A, 307, 323, 506(2), 201 read with 34 I.P.C.

3. Ms.Katdare’s grievance is that applicants

anticipatory bail application has been rejected erroneously by the learned Sessions Judge, Daman. She submits that the incident has occurred on 8th January 2004. Complainant has left the house of applicants and started residing with her parents since September/October 2004. F.I.R. is registered on 9th November 2006. Prior thereto, she had approached Human Rights Commission in January 2006. In such circumstances and when all family members are roped in, an exception should be made and the anticipatory bail application be granted.

4. The above facts are not seriously disputed by the prosecution and the original complainant. However, Ms.Kaushik appearing for original complainant states that the matrimonial proceedings are pending so also this is a case where original complainant was forced to reside away from her husband and in-laws on account of assault that took place. She sustained burn

injuries and considerable amounts were spent by her parents on her treatment. Even now she is forced to reside with her parents and there is no provision made for her.

5. The necessity for custodial interrogation in the light of the above admitted facts has not been pointed out. It is not as if all applicants are not going to be made available for trial or during the course of investigation. They are permanently residing at Diu. Even the applicant No.1 is working in Merchant Navy and boards ship for employment purpose. He also resides at the address mentioned in the cause title and would make himself available for investigation as and when summoned. That apart, it is pointed out that the second applicant is father in law and a retired teacher. Third applicant is house-wife.

6. Ms.Katdare after taking instructions from applicant No.1, who is present in court states

that the matrimonial proceedings are pending in family court, Mumbai. Applicants have genuine desire to put an end to all disputes. They are even ready for divorce by mutual consent. To show their bonafides applicants would deposit a sum of Rs.1 lakh in the family court, without prejudice to their rights and contentions, on or before 10th February 2007. Needless to state that the family court would, thereafter, pass appropriate orders, including permitting the original complainant to withdraw the said amount. Deposit and withdrawal are both without prejudice to the rights and contentions of respective parties. Ms.Kaushik undertakes to file her vakalatnama for original complainant by 22nd December 2006. Hence, following order:-

i) In the event of the arrest of the applicants (1) Mr.Hitesh Parbat Solanki, (2) Mr.Parbat Kanji Solanki and (3) Mrs.Damayanti Parbat Solanki in

connection with C.R.No.38 of 2006 registered with Diu police station the applicants shall be enlarged on bail in the sum of Rs.5000/- each with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend the Diu police station as and when summoned.

iii) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicants shall not tamper with the prosecution

evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicants only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)